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REMARKS

I. Status Summary

Claims 30-33, 37-40, 44, 72-75, 79-82, 86, 93-96, 99-102, 105, 111-115, 119-123, 127, and 135-150 are pending in the present application, all of which presently stand rejected. Claims 30, 37, 44, 72, 79, 86, 93, 99, 105, 111, 119, and 127 have been amended. No new matter has been introduced by the present amendment. Reconsideration of the application as amended and based on the remarks set forth hereinbelow is respectfully requested.

II. Information Disclosure Statement

The Examiner states that the Information Disclosure Statement ("IDS") filed August 12, 2004 fails to comply with 37 C.F.R. § 1.98(a)(2) because it does not include a copy of each cited foreign patent document, each non-patent literature publication or that portion which caused it to be listed; and/or all other information or that portion which caused it to be listed. Copies of the relevant documents are enclosed along with the IDS filed herewith.

The Examiner states that the Information Disclosure Statement filed August 12, 2004 fails to comply with 37 C.F.R. § 1.98(a)(3) because it does not include a concise explanation of the relevance of each patent listed that is not in the English language. Copies of the English abstracts of the patents are enclosed herewith. The abstracts provide explanation of the relevance of each patent.

III. Claim Rejections Under 35 U.S.C. § 102

Claims 30-33, 37-40, 44, 136, and 138 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,161,185 to Guthrie et al. (hereinafter, "Guthrie"). Further, claims 93-96, 99-102, 105, 111-115, 119-123, 127, 144, 146, 148, and 150 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,405,318 to Rowland (hereinafter, "Rowland"). Claims 72-75, 79-82, 86, 140, and 142 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent

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Application Publication No. 2002/0135612 to Royer et al. (hereinafter, "Royer"). These rejections are respectfully traversed.

A. Rejections Based Upon Guthrie

With regard to the rejection of claims 30-33, 37-40, and 44, the Examiner contends that Guthrie discloses capturing communication data in the sense that Guthrie discloses keeping an audit trail of each login attempt including date and timestamps. It is noted that these audit log files are kept by the server (See, e.g., col. 13, lines 46-48), and therefore these files must necessarily either be part of the server application or be in communication with the application and have access to its storage.

In contrast, the subject matter of the present patent application involves the use of a security system that is independent from both the server and the client, and in fact does not even have any access to the server storage or its application. Accordingly, the methods and systems taught by the present subject matter involve receiving a copy of the communication data without interfering with the traffic between the client and server. Claims 30, 37, and 44 have each been amended to more specifically recite this arrangement. In particular, claims 30 and 44 have been amended to recite that capturing communication data is accomplished without accessing or modifying the server application or the client and without affecting the normal flow of network traffic. Similarly, claim 37 has been amended to recite that the network interface is separate from both the server application and the client and that the detector is operable to transparently monitor user login failures. Support for these amendments can be found in the specification as originally filed at, for example, page 17, line 8, through page 18, line 2, and in Figures 1A and 1B.

These features are neither taught nor suggested by Guthrie, and thus it is respectfully submitted that the rejection of claims 30, 37, and 44 under 35 U.S.C. § 102(b) should be withdrawn and the claims allowed at this time. In addition, claims 32, 33, and 136 depend upon claim 30 and claims 38-40 and 138 depend upon claim 37, and it is therefore further submitted that the rejection of these claims should likewise be withdrawn and the claims allowed at this time.

B. Rejections Based upon Rowland

With regard to the rejection of claims 93-96, 99-102, 105, 111-115, 119-123, and 127, the Examiner contends that Rowland discloses capturing communication data in the sense that Rowland discloses the user profile created for each user captures login times each time the user logs on. In this regard, the system of Rowland uses substantially the same method as Guthrie (See, e.g., col. 3, lines 41-48). As a result, it is respectfully submitted that Rowland fails to disclose a security system that is independent from both the server and the client, and in fact does not even have any access to the server storage or its application.

To emphasize these features, claims 93, 99, 105, 111, 119, and 127 have similarly been amended to more specifically recite this arrangement. In particular, claims 93, 105, 111, and 127 have been amended to recite that capturing communication data is accomplished without accessing or modifying the server application or the client and without affecting the normal flow of network traffic. Similarly, claims 99 and 119 have been amended to recite that the network interface is separate from both the server application and the client and that the detector is operable to transparently monitor/capture the communication data. Again, support for these amendments can be found in the specification as originally filed at, for example, page 17, line 8, through page 18, line 2, and in Figures 1A and 1B.

These features are neither taught nor suggested by Rowland, and thus it is respectfully submitted that the rejection of claims 93, 99, 105, 111, 119, and 127 under 35 U.S.C. § 102(b) should be withdrawn and the claims allowed at this time. In addition, claims 94-96 and 144 depend upon claim 93, claims 100-102 and 146 depend upon claim 99, claims 112-115 and 148 depend upon claim 111, and claims 120-123 and 150 depend upon claim 119, and it is therefore further submitted that the rejection of these claims should likewise be withdrawn and the claims allowed at this time.

C. Rejections Based Upon Royer

With regard to the rejection of claims 72-75, 79-82, and 86, the Examiner contends that Royer discloses capturing communication data in the sense that Royer teaches that a timestamp is recorded each time an activity is performed and uses that information to determine when there is a session expiration. This approach disclosed in Royer requires an application that sits inline between the client and the server and handles the user's login to a plurality of server applications. This approach is described, for example, in claim 1 of Royer as "first application". This "first application" is responsible, among other things, for detecting session inactivity (See, e.g., claim 5 of Royer). It is respectfully submitted that this approach certainly interferes with the communication between the client and the server.

In contrast, claims 72, 79, and 86 have been amended to recite that a copy of the communication data is received without interfering with the traffic between the client and server. In particular, claims 72 and 86 have been amended to recite that capturing communication data is accomplished without accessing or modifying the server application or the client and without affecting the normal flow of network traffic. Similarly, claim 79 has been amended to recite that the network interface is separate from both the server application and the client and that the detector is operable to transparently monitor user logoff. Again, support for these amendments can be found in the specification as originally filed at, for example, page 17, line 8, through page 18, line 2, and in Figures 1A and 1B.

These features are neither taught nor suggested by Royer, and thus it is respectfully submitted that the rejection of claims 72, 79, and 86 under 35 U.S.C. § 102(b) should be withdrawn and the claims allowed at this time. In addition, claims 73-75 and 140 depend upon claim 72, and claims 80-82 and 142 depend upon claim 79, and it is therefore further submitted that the rejection of these claims should likewise be withdrawn and the claims allowed at this time.

IV. Claim Rejections Under 35 U.S.C. § 103

Claims 32, 33, 39, and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Guthrie in view of U.S. Patent Application Publication No. 2002/0184217 to Bisbee et al. (hereinafter, "Bisbee"). Claims 135 and 137 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Guthrie in view of U.S. Patent Application Pub. No. 2002/0007453 to Nemovicher (hereinafter, "Nemovicher"). Claims 139 and 141 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Royer in view of Nemovicher. Finally, claims 143, 145, 147, and 149 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rowland in view of Nemovicher. These rejections are respectfully traversed.

With regard to claims 32, 33, 39, and 40, as discussed above, it is respectfully submitted that Guthrie fails to teach or suggest methods and systems that involve receiving a copy of the communication data without interfering with the traffic between the client and server, as is recited in amended claims 30 and 37. Because claims 32 and 33 depend upon claim 30 and claims 39 and 40 depend upon claim 37, the above arguments apply equally to these claims. It is further respectfully submitted that the addition of Bisbee does not remedy the deficiencies of Guthrie. As a result, it is respectfully requested that the rejection of claims 32, 33, 39, and 40 under 35 U.S.C. § 103(a) be withdrawn and the claims allowed at this time.

With regard to claims 135, 137, 139, 141, 143, 145, 147, and 149, the Examiner contends that although none of Guthrie, Royer, and Rowland disclose making a copy of the communications data, Nemovicher discloses creating a backup and archive storage to preserve data from the LAN. However, Nemovicher also discloses that "[i]t should be noted that backup, archival and storage functions provided by backup and storage system **140** can be any type of secure backup and archive storage system that can obtain and preserve data from LAN **20** through server **10** for retrieval at a later point in time. Backup and storage system **140** can be local, off site, network connected, or a manual media storage vault, for example." (page 4, paragraph [0045], emphasis added) Regardless of the location of backup and storage system **140**, Nemovicher discloses that it obtains and preserves data through the server. As such,

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it is not the communication data on the LAN that is backed up, but rather the files created by the server.

As a result, the addition of Nemovicher does not remedy the inability of any of the cited references to teach or suggest a security system that does not have any access to the server storage or its application and that does not interfere with the network traffic between the client and the server. Accordingly, because claims 135, 137, 139, 141, 143, 145, 147, and 149 depend upon claims 30, 37, 72, 79, 93, 99, 111, and 119, respectively, the amendments to claims 30, 37, 72, 79, 93, 99, 111, and 119, and the arguments presented with respect thereto apply equally to these claims. As a result, it is respectfully requested that the rejections of claims 135, 137, 139, 141, 143, 145, 147, and 149 under 35 U.S.C. § 103(a) be withdrawn and the claims allowed at this time.

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CONCLUSION

In light of the above Amendments and Remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

DEPOSIT ACCOUNT

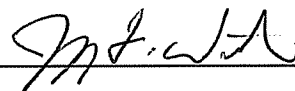
The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

Date: August 12, 2008

By: _____


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